

Advisory Opinion

IECDB AO 2004-16

October 21, 2004

Matthew P. Eide
Eide & Heisinger
329 43rd Street
Des Moines, Iowa 50312

Dear Mr. Eide:

This opinion is in response to your letter of September 20, 2004, requesting an opinion from the Iowa Ethics and Campaign Disclosure Board. We note at the outset that the Board's jurisdiction is limited to the application of Iowa Code chapters 68A and 68B and rules in Iowa Administrative Code chapter 351.

FACTUAL STATEMENT:

We understand you request this opinion in your capacity as a registered lobbyist. You are concerned about potential conflicts between Iowa Code sections 68B.22(4)"r" and 68B.22(4)"i".

QUESTIONS:

We understand that you ask the following questions:

1. An association hosts a breakfast reception and invites all 150 members of the legislature. The cost of the breakfast for each legislator is less than \$3.00. May the association use the \$3.00 exception under section 68B.22(4)"i" and avoid filing a report under section 68B.22(4)"r"?
2. An association hosts a breakfast reception and invites all 150 members of the legislature. Ten legislators and 100 members of the association attend. Does the association file a report disclosing the total amount of food, beverage, and

entertainment received by the 10 legislators or does the report disclose the entire cost of the reception?

OPINION:

Iowa Code section 68B.22(4)“r” requires the filing of reports disclosing costs involved with certain receptions held during the legislative session. This opinion is limited to the session reception reports filed with the Board. We suggest that you also submit your opinion request to both the Senate and House Ethics Committees for guidance on what to disclose on reception reports filed with the legislative branch.

Iowa Code section 68B.22(4) provides exceptions to the state gift law. Subparagraph “r” provides for the following specific exception:

“Gifts of food, beverage, and entertainment received by public officials or public employees at a reception where every member of the general assembly has been invited to attend, when the reception takes place during a regular session of the general assembly. A sponsor of a reception under this paragraph shall file a report disclosing the total amount expended, including in-kind expenditures, on food, beverage, and entertainment for the reception. The report shall be filed with the secretary of the senate, the chief clerk of the house, and the board within five business days following the date of the reception.”

As the Board’s Executive Director was part of the crafting of this exception,¹ we are confident in speaking to the legislative intent behind it. One purpose was to eliminate the need for governmental personnel and sponsors of receptions to determine how much food and drink was being consumed in order to stay under the \$3.00 exception in section 68B.22(4)“i”. Another purpose was to provide disclosure to the public concerning the costs of the receptions.

Therefore, we are of the opinion that the legislature intended for section 68B.22(4)“r” to apply to all qualified receptions and for there to be public disclosure regardless of whether or not the per person cost exceeded \$3.00. Thus, if a reception is held during the legislative session and all 150 members of the legislature are invited to attend, an executive branch session reception report must be filed regardless of the per person cost of the reception.

Turning to your second question, the exception states that a “sponsor of a reception under this paragraph shall file a report disclosing the total amount expended, including in-kind expenditures, on food, beverage, and entertainment for the reception.” We

believe that this language requires the total cost of food, beverage, and entertainment spent for the reception to be reported, not the amount actually received by governmental officials and employees.

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair

Janet Carl, Vice Chair

Gerald Sullivan

Betsy Roe

John Walsh

Patricia Harper

Submitted by: W. Charles Smithson, Board Legal Counsel

¹ Section 68B.22(4)“r” was enacted in 2003 Iowa Acts, Chapter 161, section 2.